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10/587,449	07/25/2006	Willem Auke Westerhof	NL040093US1	1223
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EXAMINER DENTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/587,449

**Applicant(s)**

WESTERHOF ET AL.

**Examiner**

Clark F. Dexter

**Art Unit**

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-9 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9 and 11-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendment filed on June 4, 2009 has been entered.

#### ***Claim Objections***

2. Claims 5 and 11 are objected to because of the following informalities:

In claim 5, line 3, it seems that a comma --,-- should be inserted after "position", in line 4, a comma --,-- should be inserted after "plane", and in line 6, a comma --,-- should be inserted before "where" for clarity.

In claim 11, lines 2-3, the recitation "the at least one of the two guiding members" should be changed to --the at least one guiding member-- for clarity; in lines 4-5, the recitation "the at least one of the two guiding members" should be changed to -- the at least one guiding member -- for clarity; in lines 7-8, the recitation "the at least one of the two guiding members" should be changed to -- the at least one guiding member -- for clarity.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> paragraph***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3724

4. Claims 7, 8, 16 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, line 6, the recitation "the adjustable guiding member" is inaccurate and renders the claim vague and indefinite, and it seems that --at least a portion of-- should be inserted before "the adjustable".

In claim 16, line 4, the recitation "the adjustable guiding member" is inaccurate and renders the claim vague and indefinite, and it seems that --at least a portion of-- should be inserted before "the adjustable".

In claim 19, line 4, the recitation "the adjustable guiding member" is inaccurate and renders the claim vague and indefinite, and it seems that --at least a portion of-- should be inserted before "the adjustable".

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 4, 6, 9, 15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Aviza, PG Publication 2005/0126007.

**Regarding claim 1** and the claims dependent therefrom, Aviza discloses a razor apparatus/assembly in various forms with every structural limitation of the claimed invention including a blade assembly comprising:

two guiding members (e.g., the structure at the lead and trailing portions of the blade assembly) each having a top surface for abutting against a skin, and

one or more blades (e.g., 18) disposed between said two guiding members, wherein a cutting edge of each blade and said top surfaces of said two guiding members are positioned substantially in one plane, and

the apparatus having a grip portion (e.g., 14) connected to said blade assembly, wherein at least one of the two guiding members is an adjustable guiding member (e.g., 24) that is adjustable in a direction perpendicular to said plane (e.g., see Figs 9, 9A-C), wherein the adjustable guiding member comprises two mutually opposing inclined surfaces (e.g., the inclined surfaces of the cooperating threads), and wherein an adjustment of a first one of the two mutually opposing inclined surfaces (e.g., rotating the inclined surface of 182/190/196) in a direction parallel to said plane adjusts a second one of the two mutually opposing inclined surfaces (e.g., the inclined surface of 24/188/194) in the direction perpendicular to said plane;

[claim 3] wherein the adjustable guiding member can be fixed in at least one of two positions with respect to the plane;

[claim 4 (from 3)] wherein the adjustable guiding member can be fixed in at least one position between said two positions;

[claim 6] wherein only one of said two guiding members is adjustable;

[claim 15] wherein the two mutually opposing inclined surfaces comprises two pairs of mutually opposing inclined surfaces, and wherein an adjustment of a first one of each of the two pairs of mutually opposing inclined surfaces in a direction parallel to said plane adjusts a second one of each of the two pairs of mutually opposing inclined surfaces in the direction perpendicular to said plane.

**Regarding claim 9** and the claims dependent therefrom, Aviza discloses a razor apparatus/assembly in various forms with every structural limitation of the claimed invention including a blade assembly comprising:

two guiding members (e.g., the structure at the lead and trailing portions of the blade assembly) each having a top surface for abutting against a skin, and one or more blades (e.g., 18) disposed between said two guiding members wherein a cutting edge of each blade and said top surfaces of said two guiding members are positioned substantially in one plane, wherein the position of at least one of the two guiding members (e.g., 24) is adjustable in a direction perpendicular to said plane (e.g., see Figs 9, 9A-C), and wherein the at least one of the two guiding members comprises two mutually opposing inclined surfaces (e.g., the inclined surfaces of the cooperating threads) wherein an adjustment of a first one of the two mutually opposing inclined surfaces (e.g., rotating the inclined surface of 182/190/196) in a direction parallel to said

Art Unit: 3724

plane adjusts a second one of the two mutually opposing inclined surfaces (e.g., the inclined surface of 24/188/194) in the direction perpendicular to said plane;

[claim 18] wherein the two mutually opposing inclined surfaces comprises two pairs of mutually opposing inclined surfaces, and wherein an adjustment of a first one of each of the two pairs of mutually opposing inclined surfaces in a direction parallel to said plane adjusts a second one of each of the two pairs of mutually opposing inclined surfaces in the direction perpendicular to said plane.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 5, 7, 8, 11-14, 16, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviza, PG Publication 2005/0126007.

**Regarding claims 5, 11 and 12**, Aviza discloses a razor apparatus/assembly with almost every structural limitation of the claimed invention but lacks the adjustable guiding member being adjustable in the claimed manner including above the plane as follows:

[claim 5] wherein the top surface of said adjustable guiding member is adjustable between and including a lowermost position where the top surface of the adjustable guiding member is in said plane and an uppermost position, wherein said some distance where the top surface of the adjustable guiding member is above said plane;

[claim 11] wherein the at least one of the two guiding members is adjustable to an uppermost position where the top surface of the at least one of the two guiding members is disposed at a distance of greater than 2 mm above said plane and is adjustable to a lowermost position where the top surface of the at least one of the two guiding members is in said plane;

[claim 12] wherein the position of the at least one of the two guiding members is adjustable to an uppermost position where said top surface is disposed at a distance of greater than 2 mm above said plane and is adjustable to a lowermost position where the top surface of the at least one of the two guiding members is in said plane.

However, it is old and well known in the art to provide such an adjustment range of such an adjustable member for various well known benefits including obtaining desired shaving characteristics. Therefore, it would have been obvious to one having



ordinary skill in the art to provide such an adjustment range for the adjustable member of Aviza to gain the well known benefits including that described above.

**Regarding claims 7, 8, 16 and 19**, Aviza discloses a razor apparatus/assembly with almost every structural limitation of the claimed invention but lacks a spring configuration as follows:

[claim 7] wherein the adjustable guiding member is movably accommodated in an encasing frame which frame is a part of the blade assembly, and wherein said top surface of the adjustable guiding member extends outside said frame, wherein the frame comprises spring means for pushing the adjustable guiding member to retain contact between the two mutually opposing inclined surfaces;

[claim 8 (from 7)] wherein said spring means comprises a pair of helical springs;

[claim 16 (from 15)] comprising a pair of spring means, wherein each one of the pair of spring means corresponds to one of the two pairs of mutually opposing inclined surfaces for pushing the adjustable guiding member to retain contact between corresponding mutually opposing inclined surfaces of each of the two pairs of mutually opposing inclined surfaces.

[claim 19 (from 18)] comprising a pair of spring means, wherein each one of the pair of spring means corresponds to one of the two pairs of mutually opposing inclined surfaces for pushing the at least one of the two guiding members to retain contact between corresponding mutually opposing inclined surfaces of each of the two pairs of mutually opposing inclined surfaces.

However, it is respectfully submitted that such spring configurations are old and well known in the art and are particularly useful on open inclined surfaces. That is, Aviza discloses inclined surfaces in the form of threads which are closed inclined surfaces in that they are disposed both above and below the cooperating surface and thus provide positive force/motion transmission in both directions of movement (i.e., upward and downward). Equivalent cooperating inclined surfaces including cooperating helical surfaces wherein positive force/motion transmission is provided in only one direction. In such configurations, springs and other types of biasing structure are often used to maintain contact between the cooperating surfaces so that the proper and/or desired relationship is maintained. Therefore, it would have been obvious to one having ordinary skill in the art when provide such an equivalent inclined surface configuration to also provide a spring configuration for at least the reasons described above.

**Regarding claims 13, 14 and 17**, Aviza discloses a razor apparatus/assembly in various forms with almost every structural limitation of the claimed invention including a blade assembly as described in detail above and further including:

[claim 14] wherein the adjustable guiding member is a lubricating member (e.g., see paragraph 0104) and wherein the other of the two guiding members is a skin stretching member (e.g., the corresponding structure of Aviza is fully capable of performing such a function to at least some extent),

[claim 17] wherein the at least one of the two guiding members is a lubricating member (e.g., see paragraph 0104) and wherein the other of the two guiding members is a skin stretching member (e.g., the corresponding structure of Aviza is fully capable of

performing such a function to at least some extent), and wherein the at least one of the two guiding members is positioned to contact a portion of skin after the one or more blades.

**Aviza lacks:**

wherein the adjustable guiding member is positioned to contact a portion of skin after the one or more blades.

However, it is old and well known in the art to provide such lubricating (such as component 24 of Aviza) behind of the blade(s) for various well known benefits including obtaining desired shaving characteristics. Aviza discloses such lubricating structure in such a position in other embodiments, namely those of Figures 7 and 11. Therefore, it would have been obvious to one having ordinary skill in the art to provide the combination of the skin stretching member in front of the blade(s) and the lubricating member behind the blade(s) to gain the well known benefits including that described above.

Further, in the alternative, if it is argued that Aviza lacks an explicit disclosure that the other guiding member is a skin stretching member, it is old and well known in the art to provide such skin stretching members in front of the blade(s) for various well known benefits including obtaining desired shaving characteristics. Aviza discloses a skin stretching member in such a position in other embodiments, namely those of Figures 2, 5, 6 and 8. Therefore, it would have been obvious to one having ordinary skill in the art to provide the combination of the skin stretching member in front of the

blade(s) and the lubricating member behind the blade(s) to gain the well known benefits including that described above.

### ***Response to Arguments***

9. Applicant's arguments filed June 4, 2009 have been fully considered but they are not persuasive. It is respectfully submitted that the prior art teaches and/or suggests the claimed subject matter as described in further detail above, in particular, the cooperating inclined surfaces as described in detail under the paragraphs directed to claims 1 and 9 above, and thus the prior art rejections must be maintained.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3724

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
September 24, 2009